

**OUTSIDE PROFESSIONAL ACTIVITIES**

**1. REASON FOR ISSUE:** To replace Veterans Health Administration (VHA) Supplement to the Department of Veterans Affairs (VA) Manual MP-5, "VA Personnel Policy Manual," Part II, "Employment of Physicians, Dentists, Podiatrists, Optometrists, Nurses, Physician Assistants, and Expanded-Function Dental Auxiliaries and other Excepted Personnel Under Title 38, United States Code, Chapter 73," Chapter 13, "Outside Professional Activities."

**2. SUMMARY OF MAJOR CHANGES:** This directive implements changes in Veterans Health Administration (VHA) policy required by Public Law (Pub. L.) 104-262, the Veterans Health Care Eligibility Reform Act of 1996.

**3. RELATED DIRECTIVE AND HANDBOOK:** VA Directive 5113 to be published.

**4. RESPONSIBLE OFFICE:** VHA, Office of Administration, Management and Administrative Support Office (163) and the Office of Human Resources Management (05) are responsible for the contents of this directive.

**5. RESCISSIONS:** VHA Supplement to VA Personnel Policy Manual MP-5, Part II, Chapter 13, "Outside Professional Activities," dated November 10, 1977, change 1, dated September 17, 1979, change 2, dated July 22, 1981, and change 3, dated June 13, 1990; Interim Issue 10-87-1 dated February 4, 1987, and supplements 1 and 2; VHA Directive 96-017, dated March 4, 1996.

**6. RECERTIFICATION:** The document is scheduled for recertification on/or before the last working day of February 2002.

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Under Secretary for Health

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## OUTSIDE PROFESSIONAL ACTIVITIES

1. **PURPOSE.** The purpose of this directive is to implement changes in Veterans Health Administration (VHA) policy required by Public Law (Pub. L.) 104-262, the Veterans Health Care Eligibility Reform Act of 1996.

### 2. BACKGROUND

a. On October 9, 1996, the President signed Pub. L. 104-262, the Veterans Health Care Eligibility Reform Act of 1996. One of the provisions of this Act removed the restrictions on assuming the responsibility for medical care of non-Department of Veterans Affairs (VA) patients by full-time Title 38 employees.

b. After reviewing the legislative history, it appears that the intent of Congress was to remove all requirements and restrictions concerning outside professional activities. Congress did not, however, change those articles addressing conflict of interest, standards of ethical conduct, and Employee Code of Conduct.

### 3. POLICY

a. Call back provisions including call back for emergency, disaster, or other patient care needs require full-time employees appointed under Title 38 United States Code (U.S.C.) Chapters 73 and 74 to be able to meet those needs beyond the minimum tour of duty and meet other institutional requirements as prescribed by the Under Secretary for Health. Therefore, full-time physicians, dentists, podiatrists, and optometrists will be continuously subject to call, 24 hours per day, 7 days per week. Nurses, nurse anesthetists, physician assistants, and Expanded-Function Dental Auxiliary (EFDA's) are subject to call back, but entitled to premium pay. Employees will continue to be expected to report for work on time, capable of performing assigned duties without interference or interruption from non-VA sources.

b. A Federal criminal statute prohibits a Government employee, whether full-time, part-time, or a special Government employee, from participating personally and substantially in a particular matter in which the employee, to the employee's knowledge, has a financial interest, if the matter would directly and predictably affect that financial interest (18 U.S.C. Section 208(a); Title 5 Code of Federal Regulations (CFR) Section 2635.402.). The statute imputes to the employee, as a personal financial interest for purposes of this restriction, the financial interests of the employee's spouse, minor children, general partners, and any organization in which the employee serves as an officer, director, trustee, general partner, or employee. The law further imputes to the employee the financial interests of a person or organization with which the employee is negotiating for employment or has an arrangement for prospective employment. The Government-wide Standards of Ethical Conduct for Employees of the Executive Branch, distributed to all employees, contains additional restrictions on outside activities. These are found in 5 CFR, Part 2635, subpart H, sections 2635.801-2635.809.

#### 4. ACTION

a. Full-time Title 38 employees may provide care for non-VA patients outside their tours of duty. No advance approval to perform outside professional activities will be required. However, due to the call back provisions, employees are to provide management with information on how they can be reached outside their VA tour of duty.

b. Medical center Directors are responsible for ensuring that all VHA mission requirements and patient care needs are met. In support of these needs and requirements, Title 38 employees are subject to call back and are responsible for ensuring that any outside employment they accept will not conflict with their VA responsibilities. Employees who are unable to meet these responsibilities due to outside commitments, may be subject to disciplinary action.

c. The Designated Agency Ethics Official (Assistant General Counsel) (023), Regional Counsels, and medical center Directors are responsible for bringing to the attention of all Title 38 employees conflict of interest and employee Code of Conduct requirements. Although approval of outside professional activities is no longer required, when facilities are involved in scarce medical source contracts, sharing agreements, or affiliation agreements, particular care must be given to ensure that employees do not violate the conflict of interest and other applicable statutes. Of paramount concern is the impact on Service Chiefs, Product Line Managers, and Chiefs of Staff. Each employee involved in an outside contractual relationship is responsible for ensuring that no violations of these statutes and standards occur. When contractual relationships exist, medical center staff may wish to consult with the appropriate Regional Counsel or Office of the General Counsel (023) regarding possible conflicts of interest.

d. Employees should consult their supervisors and facility Human Resources Manager on matters such as patient care responsibilities, call back, call schedules, and tours of duty.

#### 5. REFERENCES

- a. Public Law 104-262.
- b. MP-5, Part II, Chapters 3, 7, and 13.
- c. VHA Handbook 1660.3.
- d. Title 38 U.S.C. Chapters 73 and 74.
- e. Title 18 U.S.C. Section 208(a).
- f. Title 5 CFR Section 2635.